



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Caveglia, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bogue, Halliday, Sacks, Williams, Zermeño
CHAIRPERSON Caveglia
Absent: COMMISSIONER None

Staff Members Present: Anderly , Conneely , Emura, Looney , Patenaude

General Public Present: Approximately 14

PUBLIC COMMENT

No comments made.

AGENDA

- 1. Use Permit Application No. 00-160-09 – 3 Diamond Autobody & Paint (Applicant), AECO Management (Owner):** Request to Establish Minor and Major Auto Repair Services within an Existing 8,650-Square-Foot Commercial Building – The Property is Located at 701 A Street in a Central City-Commercial (CC-C) Zoning District
- 2. Historic Site Designation No. 13 – ConAgra (Owner):** Request by the Planning Director for designation of the Hunt Foods Water Tower as an Historic Structure – the Property is Located at 199 C Street, and Approximately 1400 Feet South of the Intersection with Burbank Street, in an Industrial (I) Zoning District
- 3. Site Plan Review Application No. 00-130-06 – Warraich Construction (Applicant/Owner):** Request to Construct a Commercial Retail Store and Three Residential Units on the Second Floor – the Property is Located at 27938 Baldwin Street in a Neighborhood Commercial (CN) Zoning District

PUBLIC HEARINGS

- 1. Use Permit Application No. 00-160-09 – 3 Diamond Autobody & Paint (Applicant), AECO Management (Owner):** Request to Establish Minor and Major Auto Repair Services within an Existing 8,650-Square-Foot Commercial Building – The Property is Located at 701 A Street in a Central City-Commercial (CC-C) Zoning District

Acting Principal Planner Patenaude presented the staff report. He noted that the building had been vacant for more than six months, thus voiding the previous use permit. Staff recommended denial of the application since the downtown core is governed by General Plan policies requiring that uses be compatible to each other and promote a pedestrian and transit orientation. The other automobile uses in the area have been in place for many years, most from before 1960. He explained that the perimeter to the downtown is important because it anticipates the arrival into the downtown area. Staff feels that another auto use in this area would help to fragment the boundary to the downtown core. Other commercial uses are viable for this location. In response to Commissioners' questions, he said that the previous use permit did not allow painting of autos. He noted that the retrofitting of the building did not imply future use. This application would be a brand new Use Permit, beyond the scope of the original.

The Public Hearing was opened at 7:45 p.m.

James Caleshu, 332 Pine Street, San Francisco, representing Attorneys for Entrepreneurs, said they represent small businesses who are trying to keep a foothold in the Bay Area. The Sarmiento's believed they could move their business into this facility. It is a great location relative to the BART station. He asked whether the human element should not be given some consideration rather than the City only trying to bring in big franchises in the area.

Alicia Guerra, Morrison & Forrester, Walnut Creek, land use attorneys for the applicant, asked for consideration of three items in particular. One, that there are other auto repair businesses in the area; two, that this business is compatible with the surrounding area; and three, that, because it is in an enclosed building, there will be few environmental or health issues with regard to the general public.

Douglas Day, AECO Management, Oakland, owners of the building, said Automotive Engineering occupied the building for 31 years and did a great deal of heavy automotive work during that time. When the owners were required to retrofit the building, they did so at their own expense and rebuilt it for auto uses. He maintained that at no time did the City tell them they should do something to the building other than for heavy auto use, so they rebuilt it to do heavy engine rebuilding and replacement work. He noted that if they can't rent the building as an auto building, it won't be rented.

Commissioner Halliday asked whether restoring the original permit would be acceptable to the applicant. She was told it would not be since this business is an auto body shop, which needs to include painting.

She then asked about the parking situation since there is such limited parking outside the building.

Ms. Guerra responded that their workload was usually limited to those parking spaces inside the building. They would agree to a condition for on-site parking.

Commissioner Zermeno asked whether they had looked elsewhere in the City for a location. He was told that, yes, they looked everywhere. They were desperate to find a place.

**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD, Council
Chambers****Thursday, November 16, 2000, 7:30 P.M.
777 "B" Street, Hayward, CA 94541**

Peter Aloo, 22206 Prospect, a former inspector with Santa Clara County and now a teacher in the City of Fremont, said he, too, had been living in Palo Alto when his home was destroyed. He could not afford to rebuild it. He met the Sarmiento's as a customer. They are hard-working American immigrants. He suggested he would do anything he could to help them retain the right to stay where they are, adding these people want to meet their dream.

Hope Nakamura, 521 E. 5th, San Mateo, staff attorney with Legal Aid in Palo Alto, said Mr. Durand came to see them on behalf of the Sarmiento's. Mr. Durand had invested more than \$10,000 in this venture so he has an interest in having the Sarmiento's continue their shop. **She** added that, with the rising costs in that area, many small businesses are being driven out.

Shirley Sarmiento, 701 A Street, applicant, said they thought this was a commercial zone. They applied for a business license and were told to go to the Planning Department. They were in Redwood City for five years when their lease expired. The new owner doubled their rent. They felt lucky to have found this place.

The Public Hearing was closed at 8:21 p.m.

Commissioner Williams asked about the location itself, saying it was built for auto repair. He asked about the nature of painting cars and has it changed enough to make it viable in this building.

Acting Principal Planner Patenaude responded that, although the nature of it has changed, they would be required to do other things to bring it to an industry standard. He added that staff was not concerned with the operation of the painting booth specifically, but of the use itself, since this would bring in a major auto repair service into the downtown.

Chairperson Caveglia reported that anyone who has been near the Earl Shibe shop on Mission, knows the paint fumes can be overwhelming. He added that the City would love to have small businesses in the area.

Commissioner Sacks asked, at what point does the City have responsibility during a retrofit, so that someone is not led into an unrealistic expectation. If the prior use was not okay there, why was it permitted, and how can we now say, you can no longer do that. If the permits to retrofit were for that purpose, why is this now under consideration.

Acting Principal Planner Patenaude responded that the retrofit took a longer time than anticipated. After vacating the building for six-months the use permit expired and a new one was required.

Chairperson Caveglia commented that even losing the former use permit, it never allowed

welding and painting.

Commissioner Williams added that this is not an allowable use. He asked how Auto Engineering operated so long outside the permit.

Acting Principal Planner Patenaude responded that given the structure of the building, the City may not have had any reason to suspect the nature of the business. However, even with a change of ownership, the original use permit would have been in effect.

Commissioner Williams said he understood what the applicant was experiencing. He would lean toward the applicant since they could not be doing that much business with their limited parking. It would be fair to agree to the application.

Commissioner Bogue said the real issue is the conditional use permit. Additional uses were never allowed so one can not argue for them. He moved, seconded by Commissioner Sacks, to deny the application subject to the findings in the staff report.

Commissioner Sacks expressed further concern over the response from the public in regard to the traffic and parking for the business. She noted that she was aware of the problem from personal experience.

Commissioner Halliday asked what other uses the building might have.

Acting Principal Planner Patenaude responded that it could be used in a variety of ways. Many other gas stations and auto tire shops have been transformed into retail uses which would be compatible with the downtown area.

Commissioner Halliday said she would reluctantly support the motion, although she might have supported reinstatement of the original permit. She expressed concern that there was so little communication between the owner and the City during the retrofit process. She said the proximity to BART is appropriate but that the original permit uses never allowed much of the heavy auto business they were doing.

Commissioner Williams said he would not support the motion because of too many factors. The building is built to serve autos. It is close to BART, which is positive aspect. He wants to encourage small businesses in the area, and if they move out, where else will they go. He added that the use permit was granted and the City did not know was going on in the building at that time.

Commissioner Zermeño said he would support the motion since this is not the right location for this business.

The motion passed **5:1**, with Commissioner Williams voting, "No."

Chairperson Caveglia reminded the petitioner that they have 10-days in which to appeal the decision.



- 2. Historic Site Designation No. 13 – ConAgra (Owner):** Request by the Planning Director for designation of the **Hunt Foods Water** Tower as an Historic Structure – the Property is Located at 199 C **Street**, and Approximately 1400 Feet South of the Intersection with Burbank Street, in an Industrial (I) Zoning District

Acting Principal Planner Patenaude presented the application as a request to designate the tower as an Historic Structure. He showed slides of the tower and indicated how far away and from how many directions it can be seen. It is a symbol of the agricultural history of the area, as well as a reminder of Hunt Foods. This designation would help to maintain the tower. He added that **the property** owner disapproves of the proposal.

Commissioner Halliday asked why the brick building was **not** also included in the proposal.

Acting Principal Planner Patenaude suggested that this might also be considered by the Commission. The water tower is the most visible part of the area and the production that took place on the site.

Commissioner Williams asked why, when the whole of the Cannery area was under public review, would they designate only the water tower. Why not wait until after the Cannery Plan is presented.

Acting Principal Planner Patenaude said that in all of the alternatives for the area, the water tower is maintained. The brick building is not. This designation would cement the City's intention of a remembrance of the Hunt's Cannery.

Commissioner Williams asked whether the owners would lose control of the tower. He was told they would not, except for being required to preserve it.

Planning Manager Anderly added that, with this designation, even if the Cannery Plan is adopted, the owners would not be allowed to take the structure down.

Commissioner Bogue asked whether the owner is required to maintain the structure or whether, currently, they could demolish it.

He was told that any demolition would require the City to issue a demolition permit.

Planning Manager Anderly added that demolition would have to take into account the historical significance of the structure, particularly if it were designated as such at this meeting, as well as the Environmental Quality Act.

Chairperson Caveglia commented about the timing, adding that this is a very visible structure

to save

The Public Hearing Opened at 8:58 p.m.

Jim Kramm, Hunt Foods, P.O.Box 3457, said he was the person quoted in the report as saying the company did not care to participate at this time. He said ConAgra was now interested and feels the designation would be a huge liability that they do not want. If the proposed linear park were **to** be adopted and taken over by the Hayward Area Recreation Department, HARD would then have the liability of the tower. He suggested that without a major wall around the structure, they are asking for liability problems.

The Public Hearing Closed at 9:02 p.m.

Commissioner Halliday asked whether adding the City logo to the tower would be at the City's expense. She was told that, yes, but as of right now, the upkeep and liability of the tower would stay with the owner. Although the City might explore ways of helping **with** the up-keep if they put their identification on the tower.

Commissioner Zermefio asked whether the City was trying to take control of the tower. He was told that, in the long term, ownership would depend on the Cannery Plan.

Commissioner Zermefio **moved**, seconded by Commissioner Halliday , to approve the designation of the Hunt Foods Water Tower **as an** historic structure pursuant to Chapter 10, Article 11, Historic Preservation Ordinance, of the Hayward Municipal Code, subject to the findings of approval, and to find that this project is categorically exempt from CEQA.

Commissioner Sacks commented about the number of water towers in the midwest from which many cities take their identity. She added that in many communities the owners take pride in the historical significance of their property and maintain them accordingly.

Commissioner Williams asked, again, about the liability. He was told that it **was** still owned by ConAgra, who will be responsible for it.

Commissioner Williams then commented that with the Cannery Plan under consideration at this point, it seems too early to take this step. He would not agree with this motion at this time.

Commissioner Halliday added that she did not realize **the** historic significance **to** the tower until she read the staff report. She said the City needs this step in order to save this structure.

Commissioner Zermefio said it is time to start working with the historical culture in the area.

Commissioner Bogue expressed concern about the maintenance of the tower.

The **motion passed 5:1**, with Commissioner Williams voting, "No."

Chairperson Caveglia reminded the petitioner that they have 10-days in which to appeal the decision.

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3. Site Plan Review Application No. 00-130-06 – Warraich Construction (Applicant/Owner): Request to Construct a Commercial Retail Store and Three Residential Units on the Second Floor – the Property is Located at 27938 Baldwin Street in a Neighborhood Commercial (CN) Zoning District

Associate Planner Emura described the application, as well as the proposed mixed use development. He indicated that a petition of 44 names of neighbors brought about the hearing before the Commission. He added that the applicant held a public meeting with neighbors in order to answer their questions. Those who attended were satisfied with the information they received and signed a letter agreeing with the proposal. He indicated that concerns about the view from the building and of the building will be alleviated with the landscaping on the property. The building is also toward the street rather than near the back by the neighboring properties,

Commissioner Bogue asked about the positioning of the restrooms in the building and how, if there are two stores on the site, they would share them.

Associate Planner Emura said that access would have to be provided for each operator. He then explained that the location of the sign on the plans was just for sample purposes, to give an idea of how the signage might be displayed.

Commissioner Bogue also expressed concern regarding the lack of closets on the plans in the residential area. He then asked about Condition 7, demolition on the site, as well as condition 41, the parking condition.

Planning Manager Anderly admitted that the lack of closets may have been an oversight. She indicated that Condition 7 was standard as there may be a previous foundation on the site. She suggested they could clarify Condition 41 to read, "currently licensed operating vehicles only."

Commissioner Williams asked whether they would be operating seven-days a week. He then asked about vagrants in the area, although, he admitted that the lighting would help.

Associate Planner Emura said that yes, presumably they would be open seven-days a week. He indicated that having occupants on the second floor would discourage loitering and vandalism.

Commissioner Sacks wondered if the 30-inch screen of vegetation might not inhibit police patrols in the area. She was told that the view from a patrol car is 36-inches so it should not make it more difficult for police.

Associate Planner Emura emphasized the condition that no liquor will be sold on the premises,

which had also been a concern of the neighbors.

The Public Hearing was opened and closed at 9:36 p.m. with no member of the public speaking.

Commissioner Zermeño said that this property is presently an eyesore. He said he owned property within two blocks of this application and would recuse himself from the hearing.

Commissioner Williams commended the applicant for upgrading the area and property. He noted that this will be an improvement. He then **moved**, seconded by Commissioner Halliday, to agree to the staff proposal to approve the application.

Commissioner Bogue asked that the change in the definition of parking in Condition 41 to be part of the motion. This was agreed to.

The **motion passed 6:0:1, with Commissioner Zermeño abstaining.**

ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

There were no oral reports.

5. Commissioners' Announcements, Referrals

There were no announcements or referrals.

MINUTES

- November 2, 2000 - Approved

ADJOURNMENT

The meeting was adjourned by Chairperson Caveglia at 9:41 p.m.

APPROVED:

Ed Bogue, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary

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